Oppose the Rescission of the H-4 Work Authorization Rule That Will Harm Over 100,000 Asian immigrant Women

In December 2017, the Department of Homeland Security announced its intent to revoke Employment Authorization Documents (EAD) for H-4 visa holders. A Notice of Proposed Rulemaking is expected to be published in the coming months. We encourage people to oppose this senseless, cruel and unnecessary rule. This rule will strip work authorization from over 100,000 women, forcing many to choose between work, family and their home. Below is a description of the rule and it's disproportionate effect on AAPI women.

What is an H-4 visa?

The H-4 visa is a visa issued to spouses and dependent children of H-1B visa holders, who are foreign workers employed in specialty occupations requiring relevant bachelor's or advanced degrees. Since 1997, more than 1.7 million individuals have received H-4 visas.[1] Approximately 136,000 individuals received H-4 status in FY 2017. According to the State Department, the overwhelming majority of these individuals are of South Asian descent; specifically, in FY 2017, approximately 86% of those who received H-4 visa status were from South Asian countries.

What is the H-4 visa work authorization rule?

In 2015, after several years of advocacy by community members, including local South Asian Women's Organizations , the Department of Homeland Security (DHS) issued a rule allowing certain H-4 dependent spouses of H-1B visa holders to legally seek employment in the US.[2] Once an H-1B holder is sponsored for employment-based lawful permanent resident (LPR) status--or a green card--his or her H-4 visa holding spouse may apply for work authorization.

As of December 2017, approximately 127,000 H-4 visa holders have been approved for work authorization under the DHS H-4 rule.[3] However, many H-4 visa holders remain ineligible for work authorization as the rule only

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[1] U.S. Department of State Bureau of Consular Affairs, "Nonimmigrant Visa Issuances by Visa Class and by Nationality: FY1997-2017 NIV Detail Table," (Last accessed May 24, 2018).
[2] U.S. Citizenship and Immigration Services, "Employment Authorization for Certain H-4 Dependent Spouses," March 7, 2017. https://www.uscis.gov/working-united-states/temporary-workers/employment-authorization-certain-h-4-dependent-spouses (Last accessed May 2, 2018).
[3] U.S. Citizenship and Immigration Services, I-765 Applicants for Employment Authorization for H-4 Non-Immigrants by Gender, Fiscal Years 2015-2018. https://www.uscis.gov/sites/default/files/files/nativedocuments/I-765_

allows spouses of persons with an approved permanent immigrant petition to work, which continues to exclude thousands of others. Even this limited victory is now under attack under the current administration, which has proposed to rescind the hard fought work authorization.

How would the rule impact AAPI immigrant women?

H-4 visa holders at risk of losing work authorization are predominantly women from Asian countries. According to the United States Citizenship and Immigration Services (USCIS), 95% of H4 visa holders who have secured work authorization are women and at least 98% are from Asian countries, the vast majority from India (93%) and China (5%).[4]

How long will these AAPI women be without work authorization?

For some H-4 visa holders it often takes 6 to 8 years to obtain a green card, but H-4 visa holders from India are stuck in H-4 status indefinitely. This is due to long backlogs in the availability of employment-based green cards for Indian nationals, so if Indian H-4 spouses lose their work authorization, they may never get to work in the U.S.

Why should you oppose the rescission of the H-4 Work Authorization Rule?

H-4 dependents must be allowed to work for numerous reasons, ranging from their ability to contribute to the household to the value they provide in sharing their talents in our economy. Additionally, these individuals deserve the right to use and enhance the skills they have learned, be financially self-sufficient, thrive mentally and physically, and pursue their dreams.

Lack of employment undermines the agency and dignity of dependent spouses
Without work permits, H-4 dependent spouses, many of whom also have advanced degrees, are not only unable to contribute to the economic security of their families--they also suffer from feelings of being devalued, depression, and isolation. Revoking work authorization for H-4 visa holders would force them to return to what many call the "golden cage" or "depression visa"[5] while also being dependent on their spouses' employment for immigration status. Without work authorization, H-4 visa holders experience a lack of dignity and agency over their well-being and future.

The rule would harm H-4 spouses' long-term career prospects
Under the new rule, H-4 visa holders who have been employed since the 2015 rule went into effect would have to seek re-employment by obtaining their own H-1B visas, which are already in short supply. Moreover, jobs that sponsor H-1B visa holders are disproportionately in STEM fields, which are known to be particularly hostile towards women, especially women of color, in hiring and work environments.

Applicants_for_Employment_Authorization_for_H-4_Non-Immigrants_by_Gender_for_FY2015-FY2018.pdf (Last Accessed May 2, 2018).

[4] *Ibid.*

[5] Sonia Paul, "Proposed changes to the H-1B visa program could put many women back into a 'golden cage'," January 4. 2018. Public Radio International, https://www.pri.org/stories/2018-01-04/proposed-changes-h-1b-visa-program-could-put-women-back-golden-cage (Last accessed May 2, 2018).

Rescinding work authorization fails to acknowledge the economic loss incurred by preventing H-4s from working. Many of these individuals might be interested in establishing a small business or founding an innovative company, yet are effectively barred from doing so because of our immigration system.

H-4 visa holders without employment are less empowered to leave abusive spouses
Studies have shown that immigration status prevents a large percentage of immigrant women from leaving abusive relationships, and that abusers often use immigration-related tactics.[6] Work authorization for H-4 visa holders who rely on their spouses for immigration status and financial stability can help provide them the resources to leave abusive relationships. Although certain abused H-4 spouses can apply for work authorization under the Immigration and Nationality Act (INA), as amended by the Violence Against Women Act (VAWA),[7] this status can be very difficult to obtain: dependent spouses are less likely to report abuse, much less produce evidence of abuse in the form of police reports, medical records, and other documents.

Rescinding work authorization limits the success of H-1B workers and their H-4 dependents
The proposed rule limits the success of H-1B workers, their families, and our nation's economic growth. The ability of H-4 dependents to contribute to their household and our economy is critical to the long-term success of H-1B workers. Not surprisingly, individuals are better able to succeed with the support of their loved ones and the economic impact of having a multi-income household cannot go unnoted.

To rescind this rule and terminate work authorization would force many spouses and children of H-1B visa holders to return to their previous personal and economic hardships, potentially place them at risk of isolation and abuse, and remove significant economic benefits to the U.S. economy.

What can you do to stop this harmful proposal?

The Department of Homeland Security is expected to revoke work authorization for H-4 visa holders in the coming months. However, the administration must first publish the proposed new regulation and invite public comments before the new policy goes into effect. During this 60-day comment period, the general public is invited to submit in writing their opposition to the rule and how it would impact them.

We encourage immigrants, advocates, and friends and family of H-4 visa holders to submit comments expressing opposition to the proposed rule and calling for work authorization for H-4 visa holders to be left intact.

We call on Members of Congress to speak publicly in support of the ability of H-4 visa holders to work, to advocate with the Department of Homeland Security to leave the H-4 work authorization rule intact, and to support legislative efforts that protect H-4 visa holders and their families.

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[6] Giselle Aguilar Hass, Nawal Ammar, and Leslye Orloff, "Battered Immigrants and U.S. Citizen Spouses, Legal Momentum" (April 2006). http://www.ncdsv.org/images/LM_BatteredImmigrantsAndUScitizen Spouses_4-24-2006.pdf (Last accessed May 4, 2018).
[7] U.S. Citizenship and Immigration Services, "Employment Authorization for Certain Abused Nonimmigration Spouses" (February 14, 2017). https://www.uscis.gov/forms/employment-authorization-certain-abused-nonimmigrant-spouses (Last accessed May 4, 2018).